

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

WESLEY KEITH HOLMES, JR.,)
)
Plaintiff,)
)
v.) CIVIL ACTION NO. 3:07-CV-241-WKW
) [WO]
)
SHERIFF JAY JONES, et al.,)
)
Defendants.)

RECOMMENDATION OF THE MAGISTRATE JUDGE

On March 19, 2007, Wesley Keith Holmes, Jr. [“Holmes”], a county inmate, filed this 42 U.S.C. § 1983 action challenging the conditions of confinement at the Lee County Detention Facility. The order of procedure entered in this case instructed Holmes that he must immediately inform the court of any new address. *Order of March 20, 2007 - Court Document No. 4* at 5. On April 25, 2007, this court entered an order, a copy of which the Clerk mailed to Holmes. The postal service returned this order because Holmes no longer resided at the address he had provided to the court for service. In light of the foregoing, the court entered an order requiring that on or before June 14, 2007 Holmes show cause why this case should not be dismissed for his failure to inform the court of his present address. *Order of June 4, 2007 - Court Doc. No. 13*. The court specifically cautioned Holmes that his failure to comply with the directives of this order would result in a

recommendation that this case be dismissed. *Id.* The plaintiff has filed nothing in response to the June 4, 2007 order. The court therefore concludes that this case is due to be dismissed.

CONCLUSION

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be dismissed without prejudice for failure of the plaintiff to properly prosecute this action and his failure to comply with the orders of this court. It is further

ORDERED that on or before July 2, 2007 the parties may file objections to the Recommendation. Any objections filed must specifically identify the findings in the Magistrate Judge's Recommendation to which the party is objecting. Frivolous, conclusive or general objections will not be considered by the District Court. The parties are advised that this Recommendation is not a final order of the court and, therefore, it is not appealable.

Failure to file written objections to the proposed findings and advisements in the Magistrate Judge's Recommendation shall bar the party from a de novo determination by the District Court of issues covered in the Recommendation and shall bar the party from attacking on appeal factual findings in the Recommendation accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982). See *Stein v. Reynolds Securities, Inc.*, 667 F.2d

33 (11th Cir. 1982). *See also Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981, *en banc*), adopting as binding precedent all of the decisions of the former Fifth Circuit handed down prior to the close of business on September 30, 1981.

Done this 19th day of June, 2007.

/s/ Wallace Capel, Jr.
WALLACE CAPEL, JR.
UNITED STATES MAGISTRATE JUDGE